

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 815

**Introduced by Assembly Member Lieber
(Coauthors: Assembly Members Chan, Dymally, Koretz, and
Pavley)**

February 18, 2005

An act to amend Sections 142.3, 144.6, 147, 147.1, and 147.2 of the Labor Code, relating to occupational safety and health.

LEGISLATIVE COUNSEL'S DIGEST

AB 815, as amended, Lieber. Occupational safety and health.

Existing law authorizes the Occupational Safety and Health Standards Board to be the only agency in the state to adopt, amend, or repeal occupational safety and health standards, and requires the board to adopt standards that are at least as effective as federal standards promulgated under the Occupational Safety and Health Act of 1970, within a specified time. Existing law also requires the board to adopt the standard that most adequately assures that no employee will suffer material impairment of health or functional capacity even if the employee has regular exposure to a hazard regulated by that standard for the period of his or her working life.

Existing law requires the Department of Industrial Relations and the State Department of Health Services to establish a repository of current data on toxic materials and harmful agents in use or potentially in use in places of employment in the state. That law requires the repository to fulfill certain functions, including providing reliable information and collecting and evaluating data and information related

to toxic materials or harmful physical agents, and recommending to the Chief of the Division of Occupational Safety and Health that an occupational safety and health standard be developed when it has been determined that a substance in use or potentially in use in places of employment is potentially toxic at the concentrations or under the conditions used.

This bill would require the repository, in addition to its existing functions, to prepare permissible exposure limits for any hazardous substances for which there is a quantitative risk assessment prepared or published by the Office of Environmental Health Hazard Assessment (OEHHA), which shall be based upon OEHHA data, to protect against cancer or reproductive, developmental, or other chronic health effects. This bill would require the repository to recommend to the board revised or new permissible exposure limits if the repository makes certain findings, and would require the repository to forward its recommendations to the board by specified deadlines.

This bill would require the board to adopt *occupational safety and health* standards for any hazardous ~~substances~~ *substance in the workplace* for which there is a quantitative risk assessment prepared or published by the OEHHA by specified dates, and would require each standard to include a permissible exposure limit based upon the OEHHA risk assessment. The bill would require the board to rely on the permissible exposure limits prepared and recommended by the repository, unless new scientific evidence is made known to the repository that the repository's permissible exposure limit would not protect employees from material impairment of health or functional capacity, in which case the repository shall consider the new evidence and make further recommendations.

This bill would also require the repository to develop risk levels that it will use to derive air concentration levels for hazardous substances prior to, or in concert with, the development of any permissible exposure limit the repository recommends to the board.

This bill would also make other conforming and clarifying changes to existing law.

This bill would incorporate additional changes in Section 147.2 of the Labor Code proposed by AB 816, that would become operative only if AB 816 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 142.3 of the Labor Code is amended to
2 read:

3 142.3. (a) (1) The board, by an affirmative vote of at least
4 four members, may adopt, amend, or repeal occupational safety
5 and health standards and orders. The board shall be the only
6 agency in the state authorized to adopt occupational safety and
7 health standards.

8 (2) (A) The board shall adopt *occupational safety and health*
9 standards for any hazardous~~—substances~~ *substance in the*
10 *workplace* for which there is a quantitative risk assessment
11 prepared or published by the Office of Environmental Health
12 Hazard Assessment (OEHHA), within the California
13 Environmental Protection Agency. Each standard shall include a
14 calculation of a permissible exposure limit based upon the
15 OEHHA risk assessment to protect against cancer or
16 reproductive, developmental, or other chronic health effects.

17 (B) In adopting a standard, the board shall rely on the
18 permissible exposure limits prepared by the repository pursuant
19 to paragraph (5) of subdivision (b) of Section 147.2 to do both of
20 the following:

21 (i) Ensure that the state's scientific risk assessment process for
22 toxic agents is consistently and uniformly used, applied, and
23 implemented in workplaces.

24 (ii) Ensure, by exercising its authority as set forth in Section
25 144.6, that no employee will suffer material impairment of health
26 or functional capacity even if the employee has regular exposure
27 to a hazard regulated by that standard for the period of his or her
28 working life.

29 (C) The board shall adopt these standards by the following
30 deadlines:

31 (i) By January 1, 2008, standards for hazardous substances for
32 which there exists a permissible exposure limit pursuant to Title
33 8 of the California Code of Regulations.

34 (ii) By January 1, 2009, standards for hazardous substances for
35 which no permissible exposure limit pursuant to Title 8 of the

1 California Code of Regulations exists, and that are listed as
2 known to the state to cause cancer or reproductive toxicity under
3 the Safe Drinking Water and Toxic Enforcement Act of 1986
4 (Chapter 6.6 (commencing with Section 25249.5) of Division 20
5 of the Health and Safety Code).

6 (iii) Within one year of the date the repository makes its
7 recommendation to the board for any permissible exposure limit
8 developed pursuant to paragraph (5) of subdivision (b) of Section
9 147.2.

10 (3) The board shall adopt standards at least as effective as the
11 federal standards for all issues for which federal standards have
12 been promulgated under Section 6 of the Occupational Safety
13 and Health Act of 1970 (29 U.S.C. Sec. 655) within six months
14 of the promulgation date of the federal standards and that, when
15 applicable to products that are distributed or used in interstate
16 commerce, are required by compelling local conditions and do
17 not unduly burden interstate commerce.

18 (4) No standard or amendment to any standard adopted by the
19 board that is substantially the same as a federal standard shall be
20 subject to Article 5 (commencing with Section 11346) and
21 Article 6 (commencing with Section 11349) of Chapter 3.5 of
22 Part 1 of Division 3 of Title 2 of the Government Code. For
23 purposes of this subdivision, “substantially the same” means
24 identical to the federal standard with the exception of editorial
25 and format differences needed to conform to other state laws and
26 standards.

27 (5) If a federal standard is promulgated and no state standard
28 that is at least as effective as the federal standard is adopted by
29 the board within six months of the date of promulgation of the
30 federal standard, the following provisions shall apply unless
31 adoption of the state standard is imminent:

32 (A) If there is no existing state standard covering the same
33 issues, the federal standard shall be deemed to be a standard
34 adopted by the board and enforceable by the division pursuant to
35 Section 6317. This standard shall not be subject to Article 5
36 (commencing with Section 11346) and Article 6 (commencing
37 with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of
38 Title 2 of the Government Code.

39 (B) If a state standard is in effect at the time a federal standard
40 is promulgated covering the same issue or issues, the board may

1 adopt the federal standard, or a portion thereof, as a standard
2 enforceable by the division pursuant to Section 6317; provided,
3 however, that if a federal standard or portion thereof is adopted
4 that replaces an existing state standard or portion thereof, the
5 federal standard shall be as effective as the state standard or
6 portion thereof. No adoption of or amendment to any federal
7 standard, or portion thereof, shall be subject to Article 5
8 (commencing with Section 11346) and Article 6 (commencing
9 with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of
10 Title 2 of the Government Code.

11 (C) Any state standard adopted pursuant to subparagraph (A)
12 or (B) shall become effective at the time the standard is filed with
13 the Secretary of State, unless otherwise provided, but shall not
14 take effect before the effective date of the equivalent federal
15 standard. That state standard shall remain in effect for six months
16 unless readopted by the board for an additional six months or
17 superseded by a standard adopted by the board pursuant to
18 paragraph (2) of subdivision (a).

19 (D) Any standard adopted pursuant to subparagraph (A), (B),
20 or (C), shall be published in Title 8 of the California Code of
21 Regulations in a manner similar to any other standards adopted
22 pursuant to paragraphs (1) and (2) of subdivision (a) of this
23 section.

24 (b) The State Building Standards Commission shall codify and
25 publish in a semiannual supplement to the California Building
26 Standards Code, or in a more frequent supplement if required by
27 federal law, all occupational safety and health standards that
28 would otherwise meet the definition of a building standard
29 described in Section 18909 of the Health and Safety Code
30 adopted by the board in the State Building Standards Code
31 without reimbursement from the board. These occupational
32 safety and health standards may also be published by the
33 Occupational Safety and Health Standards Board in other
34 provisions in Title 8 of the California Code of Regulations prior
35 to publication in the California Building Standards Code if that
36 other publication includes an appropriate identification of
37 occupational safety and health standards contained in the other
38 publication.

39 (c) Any occupational safety or health standard or order
40 promulgated under this section shall prescribe the use of labels or

1 other appropriate forms of warning as are necessary to ensure
2 that employees are apprised of all hazards to which they are
3 exposed, relevant symptoms and appropriate emergency
4 treatment, and proper conditions and precautions for safe use or
5 exposure. Where appropriate, these standards or orders shall also
6 prescribe suitable protective equipment and control or
7 technological procedures to be used in connection with these
8 hazards and shall provide for monitoring or measuring employee
9 exposure at such locations and intervals and in a manner as may
10 be necessary for the protection of employees. In addition, where
11 appropriate, the occupational safety or health standard or order
12 shall prescribe the type and frequency of medical examinations
13 or other tests that shall be made available, by the employer or at
14 his or her cost, to employees exposed to these hazards to most
15 effectively determine whether the health of each employee is
16 adversely affected by this exposure.

17 (d) The results of the examinations or tests required by
18 subdivision (c) shall be furnished only to the Division of
19 Occupational Safety and Health, the State Department of Health
20 Services, any other authorized state agency, the employer, the
21 employee, and, at the request of the employee, to his or her
22 physician.

23 SEC. 2. Section 144.6 of the Labor Code is amended to read:

24 144.6. (a) In promulgating standards dealing with toxic
25 materials or harmful physical agents, the board shall adopt the
26 standard that most adequately assures, to the extent feasible, that
27 no employee will suffer material impairment of health or
28 functional capacity even if the employee has regular exposure to
29 a hazard regulated by that standard for the period of his or her
30 working life. Development of standards under this section shall
31 be based upon research, demonstrations, experiments, and other
32 information, as appropriate.

33 (b) In adopting standards pursuant to subdivision (a), the board
34 shall consider the attainment of the highest degree of health and
35 safety protection for the employee, the latest available scientific
36 data in the field, the reasonableness of the standards, and
37 experience gained under this and other health and safety laws.

38 (c) The board shall rely on the scientific expertise of the
39 repository with respect to any recommendation for a permissible
40 exposure limit prepared pursuant to paragraph (5) of subdivision

1 (b) of Section 147.2. If new scientific evidence is made known to
2 the repository that the repository's permissible exposure limit
3 would not protect employees from material impairment of health
4 or functional capacity, then the repository shall consider the new
5 evidence and make further recommendations.

6 (d) Whenever practicable, the standard promulgated shall be
7 expressed in terms of objective criteria and of the performance
8 desired.

9 SEC. 3. Section 147 of the Labor Code is amended to read:

10 147. The board shall refer to the Division of Occupational
11 Safety and Health for evaluation of any proposed occupational
12 safety or health standard or variance from adopted standards
13 received by the board from sources other than the division or the
14 repository. The division shall submit a report on the proposed
15 standard or variance within 60 days of receipt thereof.

16 SEC. 4. Section 147.1 of the Labor Code is amended to read:

17 147.1. In connection with the development and promulgation
18 of occupational health standards, the Division of Occupational
19 Safety and Health shall perform, ~~except with respect to~~ *or for*
20 *those* standards or permissible exposure limits developed
21 pursuant to paragraph (3) or (5) of subdivision (b) of Section
22 147.2, *may perform*, all of the following functions:

23 (a) Analyze proposed and new federal occupational health
24 standards, evaluate their impact on California, determine any
25 necessity for their modification, and present the proposed
26 standards to the board in sufficient time for the board to conduct
27 hearings and adopt standards within the time required.

28 (b) Maintain liaison with the National Institute of
29 Occupational Safety and Health and the federal Occupational
30 Safety and Health Administration in the development of
31 recommended federal standards and, when appropriate, provide
32 representation on federal advisory committees dealing with the
33 development of occupational health standards.

34 (c) On occupational health issues not covered by federal
35 standards, maintain surveillance, determine the necessity for
36 standards, and develop and present proposed standards to the
37 board.

38 (d) Evaluate any proposed occupational health standard or
39 application for a variance of an occupational health standard

1 received by the board, and submit a report to the board on the
2 proposed standard or variance within 60 days of receipt thereof.

3 (e) Appear and testify at board hearings and other public
4 proceedings involving occupational health matters.

5 SEC. 5. Section 147.2 of the Labor Code is amended to read:

6 147.2. (a) In accordance with Chapter 2 (commencing with
7 Section 6350) of Part 1 of Division 5 of this code and Section
8 105175 of the Health and Safety Code, the Department of
9 Industrial Relations shall, by interagency agreement with the
10 State Department of Health Services, establish a repository of
11 current data on toxic materials and harmful physical agents in use
12 or potentially in use in places of employment in the state.

13 (b) The repository shall fulfill all of the following functions:

14 (1) Provide reliable information of practical use to employers,
15 employees, representatives of employees, and other
16 governmental agencies on the possible hazards to employees of
17 exposure to toxic materials or harmful physical agents.

18 (2) Collect and evaluate toxicological and epidemiological
19 data and any other information that may be pertinent to
20 establishing harmful effects on health of exposure to toxic
21 materials or harmful physical agents. Nothing in this subdivision
22 shall be construed as authorizing the repository to require
23 employers to report any information not otherwise required by
24 law.

25 (3) Recommend to the Chief of the Division of Occupational
26 Safety and Health that an occupational safety and health standard
27 be developed whenever it has been determined that a substance
28 in use or potentially in use in places of employment is potentially
29 toxic at the concentrations or under the conditions used.

30 (4) Notify the Director of Food and Agriculture of any
31 information developed by the repository that is relevant to
32 carrying out his or her responsibilities under Chapter 2
33 (commencing with Section 12751) and Chapter 3 (commencing
34 with Section 14001) of Division 7 of the Food and Agricultural
35 Code.

36 (5) Prepare permissible exposure limits for any hazardous
37 substances for which there is a quantitative risk assessment
38 prepared or published by the Office of Environmental Health
39 Hazard Assessment (OEHHA), within the California
40 Environmental Protection Agency. Each permissible exposure

1 limit shall be based upon the OEHHA data to protect against
2 cancer or reproductive, developmental, or other chronic health
3 effects.

4 (A) The repository shall recommend revised or new
5 permissible exposure limits to the board for adoption if the
6 repository finds either of the following:

7 (i) An existing permissible exposure limit is not as protective
8 as the repository's calculation of the permissible exposure limit.

9 (ii) No permissible exposure limit exists for any workplace
10 hazardous substance that is listed as known to the state to cause
11 cancer or reproductive toxicity under the Safe Drinking Water
12 and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing
13 with Section 25249.5) of Division 20 of the Health and Safety
14 Code) and for which the OEHHA has prepared or published a
15 quantitative risk assessment.

16 (B) The repository shall forward its recommendations for
17 revised or new permissible exposure limits to the board by the
18 following deadlines:

19 (i) By January 1, 2007, revised permissible exposure limits for
20 hazardous substances for which there exists a permissible
21 exposure limit pursuant to Title 8 of the California Code of
22 Regulations.

23 (ii) By January 1, 2008, new permissible exposure limits for
24 hazardous substances for which no permissible exposure limit
25 exists and that are listed as known to the state to cause cancer or
26 reproductive toxicity under the Safe Drinking Water and Toxic
27 Enforcement Act of 1986 (Chapter 6.6 (commencing with
28 Section 25249.5) of Division 20 of the Health and Safety Code).

29 (iii) All other permissible exposure limits based upon
30 quantitative risk assessments prepared or published by OEHHA
31 or based upon new scientific evidence shall be developed
32 promptly to the extent allowed by repository resources and
33 forwarded to the board immediately thereafter.

34 (C) The repository may develop recommendations for
35 standards for any hazardous substances identified pursuant to this
36 paragraph.

37 (6) The repository shall develop risk levels, which may from
38 time to time be modified, that will be used by the repository to
39 derive air concentration levels for hazardous substances prior to,
40 or in concert with, the development of any permissible exposure

1 limit that the repository recommends to the board pursuant to
2 subparagraph (A) of paragraph (5).

3 (c) The Director of Industrial Relations shall appoint an
4 Advisory Committee to the repository. The Advisory Committee
5 shall consist of four representatives from labor, four
6 representatives from management, four active practitioners in the
7 occupational health field, and three persons knowledgeable in
8 biomedical statistics or information storage and retrieval systems.
9 The Advisory Committee shall meet on a regular basis at the
10 request of the director. The committee shall advise and be
11 consulted by the director at each phase of the structuring and
12 functioning of the repository and alert system with regard to the
13 procedures, methodology, validity, and practical utility of
14 collecting, evaluating, and disseminating information concerning
15 hazardous substances, consistent with the primary goals and
16 objectives of the repository.

17 (d) Nothing in this section shall be construed to limit the
18 ability of the State Department of Health Services to propose
19 occupational safety and health standards to the board.

20 (e) Policies and procedures shall be developed to assure, to the
21 extent possible, that the repository uses and does not duplicate
22 the resources of the federal government and other states.

23 (f) On or before December 31 of each year, the Department of
24 Industrial Relations shall submit a report to the Legislature
25 detailing the implementation and operation of the repository,
26 including, but not limited to, the amount and source of funds
27 allocated and spent on repository activities, the toxic materials
28 and harmful physical agents investigated during the past year and
29 recommendations made concerning those toxic materials and
30 harmful physical agents, actions taken to inform interested
31 persons of the possible hazards of exposure to toxic materials and
32 harmful physical agents, and any recommendations for
33 legislative changes relating to the functions of the repository.

34 *SEC. 5.5 Section 147.2 of the Labor Code is amended to*
35 *read:*

36 147.2. (a) In accordance with Chapter 2 (commencing with
37 Section 6350) of Part 1 of Division 5 of this code and Section
38 105175 of the Health and Safety Code, the Department of
39 Industrial Relations shall, by interagency agreement with the
40 State Department of Health Services, establish a repository of

1 current data on toxic materials and harmful physical agents in use
2 or potentially in use in places of employment in the state.

3 (b) The repository shall fulfill all of the following functions:

4 (1) Provide reliable information of practical use to employers,
5 employees, representatives of employees, and other
6 governmental agencies on the possible hazards to employees of
7 exposure to toxic materials or harmful physical agents.

8 (2) Collect and evaluate toxicological and epidemiological
9 data and any other information that may be pertinent to
10 establishing harmful effects on health of exposure to toxic
11 materials or harmful physical agents. Nothing in this subdivision
12 shall be construed as authorizing the repository to require
13 employers, *other than chemical manufacturers, suppliers,*
14 *distributors, importers, and their agents,* to report any
15 information not otherwise required by law.

16 (3) *Upon written request by the repository, chemical*
17 *manufacturers, suppliers, distributors, importers, and their*
18 *agents shall provide to the repository the names and addresses of*
19 *their customers who have purchased certain chemicals, as*
20 *specified by the repository, or commercial products containing*
21 *those chemicals.*

22 (A) *The names and addresses of customers provided by*
23 *chemical manufacturers, suppliers, distributors, importers, and*
24 *their agents pursuant to this paragraph shall be considered*
25 *confidential and exempt from public disclosure under the*
26 *California Public Records Act (Chapter 3.5 (commencing with*
27 *Section 6250) of Division 7 of Title 1 of the Government Code),*
28 *except that those names and addresses may be disclosed to*
29 *officers or employees of the state not affiliated with the*
30 *repository who are responsible for carrying out the purposes of*
31 *Division 5 (commencing with Section 6300).*

32 (B) *The State Department of Health Services shall be entitled*
33 *to reimbursement of attorney's fees and costs incurred in seeking*
34 *an injunction to enforce the requirements of this paragraph.*

35 (3)

36 (4) Recommend to the Chief of the Division of Occupational
37 Safety and Health ~~Administration~~ that an occupational safety and
38 health standard be developed whenever it has been determined
39 that a substance in use or potentially in use in places of

1 employment is potentially toxic at the concentrations or under the
2 conditions used.

3 ~~(4)~~

4 (5) Notify the Director of Food and Agriculture of any
5 information developed by the repository that is relevant to
6 carrying out his or her responsibilities under ~~Chapters~~ Chapter 2
7 (commencing with Section 12751) and Chapter 3 (commencing
8 with Section 14001) of Division 7 of the Food and Agricultural
9 Code.

10 (6) *Prepare permissible exposure limits for any hazardous*
11 *substances for which there is a quantitative risk assessment*
12 *prepared or published by the Office of Environmental Health*
13 *Hazard Assessment (OEHHA), within the California*
14 *Environmental Protection Agency. Each permissible exposure*
15 *limit shall be based upon the OEHHA data to protect against*
16 *cancer or reproductive, developmental, or other chronic health*
17 *effects.*

18 (A) *The repository shall recommend revised or new*
19 *permissible exposure limits to the board for adoption if the*
20 *repository finds either of the following:*

21 (i) *An existing permissible exposure limit is not as protective*
22 *as the repository's calculation of the permissible exposure limit.*

23 (ii) *No permissible exposure limit exists for any workplace*
24 *hazardous substance that is listed as known to the state to cause*
25 *cancer or reproductive toxicity under the Safe Drinking Water*
26 *and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing*
27 *with Section 25249.5) of Division 20 of the Health and Safety*
28 *Code) and for which the OEHHA has prepared or published a*
29 *quantitative risk assessment.*

30 (B) *The repository shall forward its recommendations for*
31 *revised or new permissible exposure limits to the board by the*
32 *following deadlines:*

33 (i) *By January 1, 2007, revised permissible exposure limits for*
34 *hazardous substances for which there exists a permissible*
35 *exposure limit pursuant to Title 8 of the California Code of*
36 *Regulations.*

37 (ii) *By January 1, 2008, new permissible exposure limits for*
38 *hazardous substances for which no permissible exposure limit*
39 *exists and that are listed as known to the state to cause cancer or*
40 *reproductive toxicity under the Safe Drinking Water and Toxic*

Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20 of the Health and Safety Code).

(iii) All other permissible exposure limits based upon quantitative risk assessments prepared or published by OEHHA or based upon new scientific evidence shall be developed promptly to the extent allowed by repository resources and forwarded to the board immediately thereafter.

(C) The repository may develop recommendations for standards for any hazardous substances identified pursuant to this paragraph.

(7) The repository shall develop risk levels, which may from time to time be modified, that will be used by the repository to derive air concentration levels for hazardous substances prior to, or in concert with, the development of any permissible exposure limit that the repository recommends to the board pursuant to subparagraph (A) of paragraph (6).

(c) The Director of Industrial Relations shall appoint an Advisory Committee to the repository. The Advisory Committee shall consist of four representatives from labor, four representatives from management, four active practitioners in the occupational health field, and three persons knowledgeable in biomedical statistics or information storage and retrieval systems. The Advisory Committee shall meet on a regular basis at the request of the director. The committee shall be consulted by, and shall advise and be consulted by the director at each phase of the structuring and functioning of the repository and alert system with regard to; the procedures, methodology, validity, and practical utility of collecting, evaluating, and disseminating information concerning hazardous substances, consistent with the primary goals and objectives of the repository.

(d) Nothing in this section shall be construed to limit the ability of the State Department of Health Services to propose occupational safety and health standards to the ~~Occupational Safety and Health Standards Board~~ board.

(e) Policies and procedures shall be developed to assure, to the extent possible, that the repository uses and does not duplicate the resources of the federal government and other states.

(f) On or before December 31 of each year, the Department of Industrial Relations shall submit a report to the Legislature

1 detailing the implementation and operation of the repository,
2 including, but not limited to, the amount and source of funds
3 allocated and spent on repository activities, the toxic materials
4 and harmful physical agents investigated during the past year and
5 recommendations made concerning ~~them~~ *those toxic materials*
6 *and harmful physical agents*, actions taken to inform interested
7 persons of the possible hazards of exposure to toxic materials and
8 harmful physical agents, and any recommendations for
9 legislative changes relating to the functions of the repository.

10 *SEC. 6 Section 5.5 of this bill incorporates amendments to*
11 *Section 147.2 of the Labor Code proposed by both this bill and*
12 *Assembly Bill 816. It shall only become operative if (1) both bills*
13 *are enacted and become effective on or before January 1, 2006,*
14 *(2) each bill amends Section 147.2 of the Labor Code, and (3)*
15 *this bill is enacted after Assembly Bill 816, in which case Section*
16 *5 of this bill shall not become operative.*